

REMARKS

Applicants have carefully reviewed this Application in light of the Office Action mailed August 7, 2007. Claims 1-48 are pending in this Application. Claims 24-37 and 38-46 stand rejected under 35 U.S.C. § 101, Claims 1-4, 9, 10, 15, 16, 24-27, 32, 33, 38, 39 and 47 stand rejected under 35 U.S.C. § 102(e) and Claims 5-8, 11-14, 17-23, 28-31, 34-37, 40-46 and 48 stand rejected under 35 U.S.C. §103(a). Claims 1, 15, 24, 38 and 47 have been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 101

Claims 24-37 and 38-46 stand rejected by the Examiner under 35 U.S.C. § 101, because the claimed invention is directed to non-statutory subject matter. Applicants have amended Claims 24 and 38 to overcome these rejections and respectfully request full allowance of Claims 24-46 as amended.

Rejections under 35 U.S.C. § 102

Claims 1-4, 9, 10, 15, 16, 24-27, 32, 33, 38, 39 and 47 stand rejected by the Examiner under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0085701 by Eric W. Parsons et al. ("*Parsons*").

Parsons discloses a system for routing inbound communications to various phones or messaging devices based on the presence of the intended recipient. The user of the system sets up routing profiles and indicates his or her "presence context" and the system routes inbound communications according to the profile enabled by the current presence context. (Page 2, ¶¶ [0011]-[0012]). The only interaction between the user associated with a given inbound communication is the ability to acknowledge receipt of a *text message* to prevent the system from resending the same message to a backup messaging device. (Page 8, ¶ [0081]).

Claim 1 recites a method comprising "generating a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled commitment with a mediated party."

Claim 15 recites a method comprising "generating a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled voice-based commitment with a mediated party."

Claim 24, as amended, recites a computer program product comprising a computer program capable of “generat[ing] a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled commitment with a mediated party.”

Claim 38, as amended, recites a computer program product comprising a computer program capable of “generat[ing] a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled voice-based commitment with a mediated party.”

Claim 47 recites a system comprising a mediation system capable of “generating a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled commitment with a mediated party.”

Applicants respectfully submit that the cited reference fails to disclose each and every element of Applicants’ invention. *Parsons* fails to teach at least a method comprising “generating a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled commitment with a mediated party,” as recited in Claim 1. *Parsons* also fails to disclose a method for facilitating mediated virtual communication comprising “generating a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled voice-based commitment with a mediated party,” as recited in Claim 15. Additionally, *Parsons* fails to teach or suggest a computer program product comprising a computer program enabled to “generate a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled commitment with a mediated party,” as recited in amended Claim 24. *Parsons* further fails to teach a computer program product comprising a computer program enabled to “generate a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled voice-based commitment with a mediated party,” as recited in amended Claim 38. Finally, *Parsons* fails to teach or suggest a system for facilitating mediated virtual communication comprising a mediation system capable of “generating a pending mediated commitment based on the availability status, the pending mediated commitment indicating a scheduled commitment with a mediated party,” as recited in Claim 47.

The Examiner alleges that *Parsons* teaches these elements of Claims 1, 15, 24, 38 and 47. For example, the Examiner states in response to Applicant's Response to Office Action dated January 30, 2007:

[G]enerating a pending mediated commitment (communication options for the current presence context such as how to forward a call, text [sic] messaging, and admin assistant, page 2 [0011]-[0012]) based on the availability status (presence context of where the user is at), the pending mediated commitment indicating a scheduled commitment with a mediated party (treatments such as taking a voice message, text messaging, or remote screening to another phone, page 3 [0029]-[0030] and figure 4g).

(Office Action, pages 3-4, 6, and 8). However, the "communications options" disclosed by *Parsons* and referenced by the Examiner do not teach that a pending mediated commitment indicates a scheduled commitment with a mediated party. Instead, *Parsons* merely teaches a set of communications options that indicate *how* the user prefers to be contacted given the user's "'presence context' (e.g. at desk, campus roam, at hotel, at home, etc.)." (Abstract; Page 2, [0012]) (emphasis added).

In addition, Applicants reiterate their earlier argument that it is improper to analogize the generation of a "pending mediated commitment" to how an incoming communication is forwarded to the user in *Parsons*, as generation of a mediated commitment is distinct from the forwarding of a communication. For example, Figure 14 of the Application illustrates that a mediation subscriber has several pending mediation commitments. As further described by the text associated with Figure 14, a "pending mediated commitment" does not relate to how a call is routed or forwarded to a mediation subscriber, but instead relates to some future event to occur at a scheduled time, for example setting an appointment to conduct a telephone conversation at a later time. Given such context, no portion of *Parsons* teaches, suggests or discloses "generating" a "commitment," let alone a "mediated commitment."

Furthermore, Applicants reiterate their earlier argument that the phrase "pending mediated commitment," if interpreted consistently with the English language, inherently relates to a future event to occur at a scheduled time. For example, "pending" is defined as, *inter alia*, "not yet decided," "impending" or "imminent." (Merriam-Webster's Collegiate Dictionary, Tenth Edition). "Commitment" is defined as, *inter alia*, "an agreement or pledge to do something *in the future*." (Merriam-Webster's Collegiate Dictionary, Tenth Edition)

(emphasis added). Thus, it is unreasonable and inconsistent with the English language for the Examiner to correlate how a call is routed or forwarded to a mediation subscriber with a “pending mediated commitment,” as the call or text message routing and forwarding disclosed in *Parsons* does not relate to a “not yet decided,” “impending” or “imminent” event, nor does it relate to “an agreement or pledge to do something in the future.” The only thing “not yet decided” in *Parsons* is whether or not the caller will choose to send a text message or leave a voice message, and this is clearly not a “pending mediated commitment.” Thus, given such context, no portion of *Parsons* teaches, suggests or discloses “generating a pending mediated commitment.” Thus, the cited reference fails to disclose the recited elements and, therefore, cannot anticipate Claims 1, 15, 24, 38 and 47.

Given that Claims 2-10 depend from Claim 1, Claim 16 depends from Claim 15, Claims 25-27 and 32-33 depend from Claim 24, and Claim 39 depends from Claim 38, Applicants respectfully submit that Claims 2-10, 16, 25-27, 32-33, and 39 are allowable. As such, Applicants respectfully request that the Examiner allow Claims 1-10, 15-16, 24-27, 32-33, 38-39, and 47.

Rejections under 35 U.S.C. §103

Claims 5-8, 11-14, 17-23, 28-31, 34-37, 40-46 and 48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Parsons*, in view of U.S. Patent No. 6,493,324 issued to John L. Truetken (“*Truetken*”).

Claims 5-8 and 11-14 depend from and provide further patentable limitations to allowable Claim 1. Claims 17-23 depend from and provide further patentable limitations to allowable Claim 15. Claims 28-31 and 35-37 depend from and provide further patentable limitations to allowable Claim 24. Claims 40-46 depend from and provide further patentable limitations to allowable Claim 38. Claim 48 depends from and provides further patentable limitations to allowable Claim 47. Therefore, Applicants respectfully submit that the Examiner reconsider, withdraw the rejections and allow Claims 5-8, 11-14, 17-23, 28-31, 35-37, 40-46 and 48.


CONCLUSION

Applicants appreciate the Examiner's careful review of the application. Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. For the foregoing reasons, Applicants respectfully request reconsideration and full allowance of Claims 1-48.

Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2581.

Respectfully submitted,
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